Supreme Court, U.S.
FILED
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No.

In The
Supreme Court of the United States

Victoria Talyansky,

Petitioner,

v.

Mercury Print Productions
and
Syracuse Language Systems

Respondents.

On Petition For Writ Of Certiorari
To The United States Court Of Appeals
For The Second Circuit

PETITION FOR WRIT OF CERTIORARI

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I brought these two cases to the Supreme Court attention because issues involved in both cases are too important for everyday individual's life.
Despite anti-discrimination laws, there are similarity in companies' behavior: willing to humiliate and discriminate individual without fear ever to be punished for.
There are erroneous similarity in standards for employment discrimination consideration by district courts as well as appellate court that can cause or causes lives, not just careers to be easily destroyed.
The difference between theory and practice is a damaging factor in individual's life.

QUESTIONS PRESENTED FOR REVIEW

1. WHETHER STANDARDS AND SIGNIFICANCE TO ESTABLISH EMPLOYMENT DISCRIMINATION WERE ERRONEOUSLY MISSED IN THE DECISIONS OF DISTRICT COURTS AS WELL AS APPELLATE COURT.
   a) prima facie case;
   b) direct evidence;
   c) willfulness in employment discrimination;
2. WHETHER INDIVIDUAL, PARTICULARLY IF PRO SE, HAS AN OPPORTUNITY TO HAVE A FAIR TRIAL.

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JURISDICTION

MERCURY PRINT PRODUCTIONS:

On October, 19 1998, the Honorable David G. Larimer of the United States District Court for the Western District Court of New York entered and endorsed an Order which dismissed my complaint in its entirety. Thereafter, this matter was timely brought before the Second Circuit Court of Appeals and was subjected to its briefing schedule. After considering the briefs and hearing oral arguments on the matter of employment discrimination: sex/age discrimination, the Second Circuit issued its opinion finding the record and arguments to be without merit.
This order was filed on August, 20 1999.

SYRACUSE LANGUAGE SYSTEMS:

On August, 7 1998, the Honorable Neal P. McCurn of the United States District Court for the Northern District Court of New York entered and endorsed an Order which dismissed my complaint of Age discrimination and hostile working environment in its entirety. Thereafter, this matter was timely brought before the Second Circuit Court of Appeals and was subjected to its briefing schedule. After considering the briefs and hearing oral arguments on the matter of age discrimination, the Second Circuit issued its opinion finding my action is time-barred for failure to timely file charge with EEOC.

These two orders are arising an issue of rights for individual to have a fair trial. These orders support defendants' motion to dismiss charges without any attempt to follow steps recognized by the Supreme Court on issues of *prima facie case, direct evidence and willfulness.*

STATEMENT OF THE CASE

MERCURY PRINT PRODUCTIONS:

On November, 11 1997, I am Victoria Talyansky, Pro Se filed a civil case against defendant Mercury Print Productions, Inc. ("Mercury") under Title VII of the Civil Rights Act, 42 U.S.C.2000 ("Title VII") in the United States District Court Western District of New York.

The claim was based on discovery information from February, 1997 after receiving proof company mislead me and gave false reason for termination. The real reason for termination was SEX/AGE discrimination. The defendant filed Motion to Dismiss the Complaint in its entirety on 12/08/97. Response in Support of the Charge was filed on 1/6/98. Decision and Order was filed on 10/19/98 and endorsed by Honorable Chief Judge David L. Larimer with conclusion granting the defendant's motion to dismiss the complaint in its entirety. The decision did not find that false statement discovered in February, 1997 and misleading me as an employee in 1994 gives any basis for equitable tolling.

Filing charge beyond 300 days after termination from Mercury raised a timing issue for complain.

SYRACUSE LANGUAGE SYSTEMS:

On March, 30 1998, I am Victoria Talyansky, Pro Se filed a civil case against defendant Syracuse Language Systems, Inc. ("SLS") under the Age Discrimination "ADEA" claiming that SLS failed to hire me, terminated my employment, created unequal terms and conditions of employment. In addition to this claim I was claiming a hostile working environment. Charges were filed in the United States District Court Northern District of New York. The defendant filed Motion to Dismiss the Complaint in its entirety on 5/4/98 Decision and Order was filed on 10/19/98 and endorsed by Honorable Senior Judge Neal P. McCurn with conclusion granting the defendant's motion to dismiss the complaint in its entirety as time-barred.

STATEMENTS OF THE FACTS

I. MERCURY PRINT:

I started working at Mercury Print in the middle of October, 1994 through my employment agency Burns Personnel. The conditions of contract were full time employment with all benefits after three months of contract. I was working as a system operator on the B-shift using equipment I was working with at Xerox for almost four years. I had no problems to work. I had no single complain about quality of tasks I performed. I can state that even more knotty jobs were left for a "B" shift because the management knew I was highly qualified to use their equipment. After four weeks, I noticed some interruptions in delivering new jobs to be executed on my shift. There were no new jobs arrived at all during the last sixth week I was working there. On December, 4 1994 in the morning (it was Sunday) I received the phone call from my agent indicating my contract was terminated. Mercury Print closed their second shift because of lack of work. The strange thing was nobody from the company tried to explain this situation during my last day on Friday, December, 2 1994. When I asked my agent to explain this situation, she just repeated what she had told me already. They brought my stuff, including cup for tea and shoes I kept in the company, to the agency indicating I can't pick it up because of company's policy.

Later I understood the company acted as they committed a crime. Their actions prove the company tried to avoid my personal appearance there. I understood their "policy" just in February, 1997 when I discovered they discriminated against me. *It was a planned action (A 27).*

The company never closed the second shift, they just created artificial condition out of work to mislead me to be able to discharge me and to hire a young male to perform exactly the same duties I performed.

The company did not give me any hint they were not satisfied with my performance and termination was actually discharge. The fact the company gave the false explanation of termination to my agency (A 27) is a direct evidence supporting my statement they planned discrimination.
This fact is abuse of power because I had no chance to find out the truth. The fact they hired a young male on the same day they terminated me couldn't be considered differently as sex/age discrimination - an outrageous willful and deliberate violation of civil rights.

Prima facie case for this sex/age discrimination:

- I was 42 years old at the time I was hired by Mercury;
- I was more than qualified to work as operator because of my experience at Xerox and qualifications as computer specialist;
- my contract was terminated without informing me company was dissatisfied with my performance;
- company replaced me with a young male on the same day they terminated my contract.

I did not suspect any wrongdoing because of following facts:
1 - agency told me Mercury informed them the company closed the second shift because of lack of work;
2 - there were no additional jobs arrived during the last week I was working at Mercury making me to believe;
3 - I was eligible for unemployment benefits after termination.
After a few unsuccessful attempts to work (Mercury and SLS were among them) and numerous interviews I had without any offer, I became suspicious something was wrong. I requested temporary agency Burns Personnel (I was working at Xerox and at Mercury through) to give me a formal reasons my contracts were terminated. In the February, 1997 I received their response that shocked me completely. I discovered Mercury acted indecent and illegally terminating my contract. I could not imagine possibility of these actions. I never forced them to hire me! It was their own decision!

2. SYRACUSE LANGUAGE SYSTEMS:

I started working at Syracuse Language Systems in the beginning of August in 1995. They advertised a few computer positions I could apply for. Despite I sent my resume applying for the advertised positions directly to the manager Roy Thomas whose name was in the ad, I received invitation for the interview from the Rochester temp. agency Tech-Aid. I agreed to all conditions offered. I started working in the company together with a young girl Nicole who just graduated from the college. We were given the same training and the same responsibilities. After couple weeks I noticed we were treated differently. I would not pay too much attention to the difference this company treated me and Nicole from the beginning if it was not so screaming and provocative. She behaved as she was a manager in the company. She did not care what she was doing and how. She behaved as she was doing a favor to the management just entering the company. Almost all managers were in the line asking Nicole if she was willing to work in their departments on a full time basis. I would not care what she was offered or why management was so interesting to hire her. I simply did not like that conversations were held in front of me. I would like to point out that managers from different departments not co-workers held that conversations and "had a dream" to hire Nicole.

Finally, Nicole made SLS happy and "agreed" to become a full time employee of SLS after three months. My contract was terminated after 4 months in a very humiliating manner. The news my contract was terminated was brought to me by an assistant manager Katie from a different department. I requested conversation with Roy Thomas who hired me, or anybody from the management who decided to terminate my contract. I was not given this "opportunity". I have just one document I am telling the truth and I was performing my job with excellence (A 28).

Another proof - ignoring to discuss performance issue.

Prima facie case for Age Discrimination claim against SLS:

1. I was forty three years old;
2. I was qualified for the job this company offered me I performed an excellent job for this company (A 28).
3. I was treated not just unequally but with humiliation. As a result, my contract was terminated after four months.
4. Nicole - young, absolutely inexperienced young woman - was hired on a full time basis.

Despite I succeeded testing software SLS was creating, management did not respect results of my work. It was strange to me because I found software problems this company had for a few years and nobody could solve them. But I needed to work and did not pay attention to details until they started screaming. Just later I found out terminology for that phenomenon: ***hostile work environment.***

1. One day engineer Dave came up to me indicating he had complains I made some mistakes *intentionally a few days ago*. He did not bring me any proof, just proclaimed his allegations. Was it as a result of jealousy to my performance or somebody tried to provoke me? I was very upset and had conversation with manager Roy Thomas about this incident.

2. My job results disappeared a few times. As a specialist in computers and network, I understood somebody who had access to my files through network, deleted them.

3. Another fun this company had: they did not let me enter either company or room where I was working. Nobody "knew", including managers, where keys were or they did not hear I was knocking into the door. It happened many times. I understood management wished me to quit, but I could not find another job and could not quit.

4. News about contract termination was brought to me by an assistant manager from a different department. Nobody from the management was available to talk to me to explain this situation. There were no other contracts terminated. Company continued hiring people.

5. The next fact of humiliation: my contract was terminated two weeks before I would be eligible for unemployment benefits.

There were so many other mean details and conversations. I don't want even to mention them in this claim because it is simply shameful for any company or any educated individual to participate in that scenarios.

LEGAL ARGUMENT

I. WHETHER STANDARDS AND SIGNIFICANCE TO ESTABLISH EMPLOYMENT DISCRIMINATION WERE ERRONEOUSLY MISSED IN THE DECISIONS OF DISTRICT COURTS AS WELL AS APPELLATE COURT

a) prima facie case;
b) direct evidence;
c) willfulness in employment discrimination;

I created ***prima facie case*** for both companies: scheme established in McDonnell Douglas v. Green, 411 U.S. 792 (1973) and Texas Dep't of Community Affairs v. Burdine, 450 U.S. 248, 253 (1981).
Both companies even did not try to bring up any believable version to explain their choices or to give any information they indicated they were dissatisfied with my performance or, maybe, they knew those who had the privilege to be hired were in any way better specialists than me[1].

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[1] the defendant must prove by a preponderance of the evidence that legitimate, nondiscriminatory reasons for the discharge existed. 608 F.2d, at 567. See Turner v. Texas Instruments, Inc., 555 F.2d 1251, 1255 (CA5 1977). Second, to satisfy this burden, the defendant "must prove that those he hired . . . were somehow better qualified than was plaintiff; in other words, comparative evidence is needed."

Direct evidence is another category that did not get any explanation from the respondents and were erroneously ignored by the courts.

1. In my complaint against Mercury I mentioned the document (A 27) I discovered in February 1997 which proves I was intentionally mislead by the company and willfully discriminated against[1]. They planned sex/age discrimination by creating an artificial condition with lack of work. Sometimes I am thinking, what forced this management to act so unlawfully. Even if they wished to terminate my contract and were willing to hire a young man instead of, what forced them to abuse the power giving a false and awfully damaging statement about my performance. How could an official statement (A 27) from Mercury be so controversial to the recommendation letters from Xerox (A 25, A 26) where I was working for 4 years? Was it willing to retaliate? What was it for? I need an explanation!
2. My complaint against SLS contains fact of contract termination when nobody from the management could be reached either for personal conversation, or even for a phone conversation. The management knew they were breaking the law. They did not have any reason to terminate my contract (I never even mentioned full time opportunity). But any decision should not be so humiliating and unlawful! It has to have ***any*** explanation if it was not deliberate discrimination. I consider this fact as direct evidence of intentional employment discrimination[2]

[1] *In the context of Title VII, direct evidence includes any statement or written document showing a discriminatory motive on its face. See Vaughn, 918 F. 2d at 521; Miles v. M.N.C. Corp., 750 F.2d 867, 870 (11th Cir.1985)*

[2] *Direct evidence is evidence which, if believed, proves the fact [of intentional discrimination] without inference or presumption." Brown v. East Miss. Elec. Power Ass'n, 989 F.2d 858, 861 (5th Cir.1993)*

Ignoring issues ***prima facie case*** and ***direct evidence*** prove willfulness in Companies' actions of employment discrimination that involves age discrimination issue.
It gives me the right to have a fair trial within 3 years statute of limitations. *See* Cash v. Jefferson Associates,Inc, No 91-6214 (5th Cir Dec. 2,1992).

2. WHETHER INDIVIDUAL, PARTICULARLY IF PRO SE, HAS AN OPPORTUNITY TO HAVE A FAIR TRIAL.

I would like to raise this issue and two questions related to it that have unfortunate impact not only on the court's decisions, but destroys any individual life: EEOC charge and TIMES LIMITS.
The only facts both companies were delighted to discuss in response to my complaints were ***EEOC charge and time-limit issue.***
This is another examples after Talyansky v. Xerox (99-529, certiorari pend.), when companies used only these issues to ignore clear evidences of employment discrimination against me. It allowed them to break anti-discrimination law and made me completely defenseless.
EEOC CHARGE. Despite Honorable David G. Larimer recognizes the fact "the timely filing of an EEOC charge is not jurisdictional prerequisite to filing a federal suite..." (Decision And Order, 97-CV-6517L, A 7), he rejects my right to have fair trial without filing complaint with EEOC.
I had unfortunate experience to file a charge with EEOC after discharge from Xerox (No 99-529, cert. pend.) My efforts were directed towards finding a next job not to force EEOC to investigate employment discrimination against me.
Mercury and SLS were among companies I tried to work for. Both companies discriminated against me.

Did it happen because of Xerox retaliation and blacklisting, or it was just their own practice of discrimination and Xerox "damaging information" (A 27) and "practice" was used to support their action? What type of relations did these two companies had with Xerox and my former manager?
Could EEOC investigate these case? There is a statistics that indicates only 1% of all complains are investigated by EEOC. But even in the case EEOC agrees to investigate the charge, there is a big risk to be retaliated by the company against. This is my point: an individual has a little or no chance to find out the truth why he/she was discriminated against without having a fair trial. There is no diligent efforts (other than trial) exists to force employer who acts *willfully unlawfully*, to act lawfully. But before charging a case in district court, every employee should have an opportunity to live without this "pain". My experience proves: to file a charge with EEOC as well as in the district court is a very stressful situation. It has to be done only in situation when she/he has no other way to survive. Everybody should have an opportunity to find another job, to find another decent company.
My case was unfortunate experience. Maybe, it happened because I am a woman, or I am over 40, or I am an immigrant, or I was blacklisted by powerful former employer Xerox.

TIME LIMITS ISSUE: I believe that ignoring facts of prima facie case or direct evidences has to be accepted as a willful and deliberate employment discrimination and to justify 3 years statute of limitations to file a case in the federal court

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CONCLUSION

My example indicates: when employer is willing to discriminate against individual, he has ability to do so. Despite a theory of *prima facie case* and *direct evidence*, the practice supports employers' ignoring the facts and unlawful activity of damaging employee's reputation to justify their actions without any risk to be punished for.

For the foregoing reasons I respectfully request this Court to grant this petition for Writ of Certiorari and to reverse the judgement of the 2-nd Circuit Court of Appeals.

Respectfully submitted this 16-th day of November, 1999

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APPENDIX

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the city of New York, on the *20 day* of August, one thousand nine hundred and ninety-nine.

PRESENT:

HON. GUIDO CALABRESI,
HON. JOSE A, CABRANES,
HON. SONIA SOTOMAYOR,
Circuit Judges,

(Filed AUG. 20 1999)

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VICTORIA TALYANSKY,
Plaintiff-Appellant,

v.

MERCURY PRINT PRODUCTION, INC.
Defendant-Appellee.

SUMMARY ORDER
#98-9438

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Appeal from the United District Court for the Western District of New York (David G. Larimer, *Chief Judge*). UPON DUE CONSIDERATION, it is ORDERED, ADJUDGED, AND DECREED that the judgement of the district court be and hereby is AFFIRMED.

For Appellant: VICTORIA TALYANSKY, *pro se*, Springfield, MA

For Appellee: J. MICHAEL WOOD, *Of Counsel*, Chamberlain, D'Amanda, Oppenheimer & Greenfield, Rochester, NY

Victoria Talyansky appeals from a judgement of the United States District Court for the Western District of New York (Larimer, *Chief Judge*), dismissing her claim of sex discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U. S. C. § 2000e (1994).

The district court dismissed the complaint on the ground that the plaintiff had failed to file a timely charge with the Equal Employment Opportunity Commission ("EEOC"). We affirm the judgement below.

From the mid-October 1994 through December 4, 1994, Talyansky worked, through a temporary employment agency, for the defendant, Mercury Print Production, Inc. ("Mercury"). On December 4, 1994 she was told by the temporary agency that Mercury no longer had any work for her and that, accordingly, she was terminated. In her complaint, she states: Accidentally, I found out that the Company hired a male operator to perform the same job on the same shift on the next day after my termination." Talyansky appears to mean that the male replacement was hired the next day, and not she found out the next day that the replacement had been hired. Indeed, in her reply to the defendant's motion to dismiss, she states that she discovered the fact of male replacement much later, "in the beginning of 1997."

On October 9, 1997, almost three years after her termination, she filed a charge with the EEOC. The EEOC dismissed the charge due to its untimely filing. Talyansky then instituted this action on November 19,1997.

The district court found that Talyansky had not filed a complaint with the EEOC within 300 days of the alleged discriminatory act, her termination, as required by law. *See* 42 U. S. C. §2000e-5(e*); Butts v. New York Dept. Of Housing Preservation & Dev.*, 990 F. 2d 1397, 1401 (2d Cir. 1993) Because the court also found that Talyansky had failed to allege any circumstances that would warrant equitable tolling, it dismissed the complaint on October, 19 1998 as time-barred. A judgment of dismissal was entered the next day.

We review *de novo* the decision of a district court to dismiss a complaint. *See Still v. DeBuono,* 101 F. 3d 888,891 (2d Cir. 1996). We also review *de novo* the decision to grant or deny equitable tolling. *See South v. Saab Cars USA, Inc.*, 28 F. 3d 9. 11 (2d Cir.1994).

The district court correctly found that Talyansky had failed to file timely administrative complaint. *See* 42 U. S. C. §2000-5(e)(1)(requiring that Title VII complainant, in a state with an agency authorized to enforce fair employment laws, file a charge with the EEOC within 300 days); 29 C.F.R. §1601,13(b)(1) (same); *Butts,* 990 F.2d at 1401 (statute of limitations for filing with the EEOC is 300 days in New York State, which has an authorized enforcement agency). Her cause of action accrued on December 4, 1994, when she was notified of her termination from Mercury. *See Chardon v. Fernandez,* 454 U.S. 6,8 (1981) (a cause of action accrues on the date of the alleged discriminatory act). But she did not file with EEOC until October, 9 1997, far more than 300 days after she was let go. "[C]ompliance with the filing period," however, is "not a jurisdictional prerequisite to filing a Title VII suit, but a requirement subject to waiver as well as tolling equity so requires."

Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 398 (1982). Equitable tolling is warranted where defendant engaged in some "affirmative misconduct... aimed at causing [the plaintiff] to forgo [her] legal rights." *Long v. Frank*. 22 F. 3d 54. 59 (2d Cir. 1994);
see also Gomes v. Avco Corp., 964 F. 2d 1330, 1333 (2d Cir. 1992) (equitable tolling is appropriate if the "defendant actively prevented [plaintiff] from discovering relevant to the discriminatory act).

Talyansky's complaint states only that the temporary agency told her that Mercury no longer had any work for her, and that at some unspecified time she "accidentally" discovered news of the male replacement. Later, in her reply to defendant's motion to dismiss, she says she learned of the replacement in the beginning of 1997. The information she "accidentally" learned is in fact with the reason given for her termination by the temporary agency - presumably on Mercury behalf. But the complaint contains no allegations that Mercury actively prevented her from learning the replacement. The district court was therefore correct in its conclusion that the plaintiff had failed to "adequately plead any basis for equitable tolling."

Having carefully reviewed the record and examined plaintiff arguments, we find them to be without merit. We AFFIRM the judgement of the district court.

For the Court,
KAREN GREVE MILTON
Acting Clerk

/s/ Lucille Carr.

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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

----------x

VICTORIA TALYANSKY,

Plaintiff,

v.

DECISION AND ORDER
97-CV-6517L

MERCURY PRINT PRODUCTIONS, INC.,

Defendant.

----------x

FILED
U.S. DISTRICT COURT
W. D. of N.Y

OCT., 19 1998

BACKGROUND

Plaintiff, Victoria Talyansky ("Talyansky"), filed the instant complaint against defendant Mercury Print Productions, Inc. ("Mercury"), alleging that Mercury terminated her employment on the basis of her sex in violation of Title VII of the Civil Rights Act, 42 U.S.C. §§2000 et al. ("Title VII").[1]

Pending before me is defendant's motion to dismiss Talyansky's complaint. For the reasons discussed, infra, defendant's motion is granted and the complaint is dismissed.

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[1]This is the third complaint plaintiff has filed, *pro se*, against different corporations alleging similar violations of Title VII. On Sept. 30, 1998, this Court granted defendant's motion to dismiss in *Talyansky v. Xerox Corp.*, *97-CV-6397L*.

FACTS

Talyansky was employed through a temporary agency for Mercury from mid-October 1994 to December 4, 1994. On or about December 6, 1994, Talyansky received a telephone call from her temporary agency informing her that Mercury had no additional work for her. Talyansky claims that sometime in the beginning of 1997, she "accidentally" discovered that, a day after her termination, Mercury had hired a male to perform the same job she had been performing prior to her termination.[2]

Talyansky filed a charge of discrimination with the Equal Employment Opportunity Commission ("EEOC") on October 9, 1997, almost three years after she left Mercury. The EEOC charge mirrors her complaint before this court. The EEOC dismissed the charge because it was not filed within 300 days of the alleged discriminatory conduct, as required by Title VII.

DISCUSSION.

Talyansky's complaint contains a very vague claim she was terminated from her employment because of her sex. Plaintiff did not set forth any facts or circumstances surrounding the claim. Talyansky did not file administrative charge relating to this claim until October 9, 1997. The administrative charge is equally vague.

Under Title VII, a claimant must file a charge of discrimination with the EEOC within 300 days after alleged discriminatory event. 42 U.S.C. §§2000e-5(e).

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[2]From the parties' papers, it appears that the new hire was a permanent employee, not a employee from a temporary agency.

When a plaintiff has not done so, the claim is time-barred. *Butts v. City of New York Dept. Of Housing Preservation and Development,* 990 F. 2d 1397, 1401 (2d Cir. 1993) (Title VII); *Demers v. Niagara Mohawk Power Corp.,* No. 94-CV-1277, 1996 WL 293162*2-*3 (N.D.N.Y, May 24 1996) (ADA).

This statutory requirement is rigorously enforced and bars untimely claims of discrimination.

In the absence of factors that would warrant tolling or otherwise extending the filing period, courts have not hesitant to dismiss claims that have not been timely filed with the EEOC. *See VanSant v. KLM Royal Dutch Airlines,* 80 F. 3d 708, 712 (2d Cir. 1996); *South v Saab Cars USA, Inc., 28 F.3d 9, 12-13 (2d Cir. 1994); Sharkey v. Lasmo (Aul Ltd.), 992 F. Supp. 321,333-34 (S.D.N.Y 1998)(ADEA case); Farrel v. State of New York, 946 F. Supp. 185, 193 (N.D.N.Y. 1996); (Frank v. New York State Elec. & Gas, 871 F. Supp. (W.D.N.Y 1994).*

Of course, the timely filing of an EEOC charge is not a jurisdictional prerequisite to filing a federal lawsuit but is more akin to a statute of limitations and subject to waiver, estoppel and tolling under appropriate circumstances. *Zipes v. Trans World Airlines, Inc.,*
455 U.S. 385, 393 (1982). In the present case, Talyansky did not file her administrative charge until almost three years after the allegedly discriminatory conduct, clearly outside of the 300 day filing requirement .

In the present case, Talyansky argues that the time for filing an administrative charge should be equitably tolled because, even though she was terminated in December 1994, at some later time she "accidentally" discovered that, the day after she was terminated, Mercury had hired a male to perform the job that she had been performing. Plaintiff fails to allege that she took any steps to determine the circumstances surrounding her termination from Mercury.

Talyansky's complaint makes no mention of when she discovered that Mercury had hired a male to replace her or under what circumstances she discovered that information. Plaintiff was, after all, a temporary employee and not an employee of Mercury. Talyansky's responding papers to Mercury's motion do indicate that it was "in the beginning of 1997" when she discovered that Mercury had hired a male to do her job immediately after terminating her employment. But the fact that Mercury hired a permanent employee who happened to be a male does not suggest discrimination.

Although equitable tolling may be used in appropriate situations to permit a plaintiff to proceed an action even though the action had been filed beyond the statute of limitations, such tolling is applied only sparingly. *See Irwin v. Department of Veteran Affaires,* 498 U.S. 89, 95 (1990); *Dillard v. Runyon,* 928 F. Supp. 1316, 1325 (S.D.N.Y. 1996).

"The essence of the [equitable tolling] doctrine 'is that a statute of limitations does not run against plaintiff who is unaware of his cause of action.'" *Cerbone v. International Ladies' Garment Workers' Union,* 768 F.2d 45, 48 (2d Cir. 1985), *quoting Long v. Abbott Mortgage Corp.,* 459 F. Supp. 108, 113, (D.Conn. 1978) Equitable tolling may be applied "when an employer's misleading conduct is responsible for the employee's unawareness of [her] cause of action." *Dillman v. Combustion Engineering, Inc.,* 784 F.2d 57, 60 (2d Cir. 1986).

In the present case, Talyansky claims, in her responding papers, that Mercury deliberately lied her about the reason for her termination in order to prevent her from asserting her rights. But, the fact is that there is no allegation in the complaint that Mercury itself informed Talyansky that the reason for her termination was a lack of work.

Indeed, the complaint cannot even be read to indicate that Mercury informed the temporary agency that the reason for Talyanky's termination was a lack of work. There is no allegation concerning Mercury's stated reasons for no longer needing temporary help.

The complaint merely states that Talyansky's temporary agency informed her that Mercury "had no more work" for her. That hardly suggests any improper action by Mercury.

The complaint is also deficient in the sense that Talyansky gives no indication of when she found out that she was replaced by a male. The timing is particularly important in the present case because Talyansky was terminated in 1994 but did not file her EEOC charge until 1997, nearly three years after her termination.

The present case, because Talyansky filed her EEQC charge well over 300 day limitation period and she has failed plead any basis for equitable tolling, I must dismiss Talyansky's complaint.

CONCLUSION

Defendant's motion to dismiss (docket entry #3) is hereby granted and the complaint is dismissed.

IT IS SO ORDERED.

/s/ David G. Larimer
DAVID G. LARIMER
CHIEF JUDGE
UNITED STATES DISTRICT COURT

Dated: Rochester, New York
October 19, 1998.

A 10

UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF NEW YORK

JUDGMENT IN A CIVIL CASE

VICTORIA TALYANSKY,	*	U.S. DISTRICT
	*	W.D.N.Y. ROCHESTER
Plaintiff(s)	*	
	*	
MERCURY PRINT	*	FILED:
PRODUCTIONS, INC.	*	October, 20 11:30 AM
Defendant(s)	*	
	*	CASE NUMBER:
	*	97-CV-6517L

[ ] **Jury Verdict**. This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict.

X **Decision by Court**. This action came to hearing before the Court. The issues have been heard and a decision has been rendered.

IT IS ORDERED AND ADJUDGED that the complaint is dismissed with prejudice.

October 20, 1998
Date

Rodney C. Early
Clerk

ATTEST: A TRUE COPY
U.S. DISTRICT COURT,
WDNY,
RODNEY C. EARLY, CLERK

/s/ Bryan J. Blough
(By) BRYAN J. BLOUGH
Deputy Clerk

By /s/ Bryan J. Blough
Deputy Clerk

Original Filed 10-20-98

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

SUMMARY ORDER

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the city of New York, on the *24 day* of September, one thousand nine hundred and ninety-nine.

PRESENT:

HON. JOSEPH M. McLAUGHLIN,
HON. DENNIS JACOBS,
HON. FRED I. PARKER,,
Circuit Judges,

(Filed SEP. 24 1999)

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Victoria Talyansky,

Plaintiff-Appellant,
#98-9238

-v.-

Syracuse Language Systems,

Defendant-Appellee.

----------x

APPEARING FOR APPELLANT: Victoria Talyansky, pro se
Springfield, MA

APPEARING FOR APPELLEE: MICHAEL KOBLENZ,
Chicago, IL
(Stephen J. Senderowitz, Franklin S. Schwerin, Schwartz, Cooper Law Firm, on the brief)

Appeal from the United States District Court for the Northern District of New York (McCurn, J.).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgement of said District Court is AFFIRMED.

Plaintiff-appellant Talyansky appeals from a judgement granting the defendant employer's Fed. R. Civ. P. 12(b) (6) motion to dismiss her age discrimination complaint as time-barred.

A district court's dismissal of a claim under Rule 12 (b) (6) is reviewed de novo. See Leeds v. Meltz, 85 F. 3d 51, 53, (2d Cir. 1996). In so doing, this Court "take[s] all well-pl [ed] factual allegations as true, and all reasonable inferences are drawn and viewed in a light most favorable to the plaintiffs." Id. Under this standard, the district court's dismissal was proper.

Under the ADEA, an aggrieved person must file a claim with Equal Employment Opportunity Commission ("EEOC") within 300 days of the discriminatory action or within 180 days of the discriminatory action if the state involved has no agency authorized to investigate age discrimination. See 29 U.S.C. §§ 626 (d) (2) ; see also Miller v. International Tel. & Tel Corp., 775 F. 2d 20, 23 (2d Cir. 1985).

According to Talyansky's complaint, the adverse employment action was taken in August 1995 when her employment contract was not renewed and she discontinued working for appellee. That was the last possible date that the alleged discrimination occurred. Yet she did not file her EEOC complaint until January 1998, well outside the 300-day limitation period.

No action based on a claim of age discrimination may be brought in federal court unless the claim was properly raised with the EEOC, i.e., within the permissible time limit for filing the claim with the EEOC . . . ." Miller, 755 F.2d at 23. Accordingly, Talyansky's action is time-barred for her failure to timely file with EEOC.

Talyansky presents no valid reasons for extending the limitation period under equitable tolling doctrine. SEE Cerbone v. International Ladies' Garment Workers' Union, 768 F. 2d 45, 48 (2d Cir. 1985).

For the reasons set forth above, the judgement of the district court is hereby AFFIRMED.

FOR THE COURT,
KAREN GREVE MILTON,
Acting Clerk
By:
/s/ Ralph A. Anderson,
RALPH A. ANDERSON, Deputy Clerk
ACTING OPERATION MANAGER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Filed: AUG. 07 1998
U.S. District Court-
N.D. OF N.Y.
98-CV-526

VICTORIA TALYANSKY,
Plaintiff,
v.

SYRACUSE LANGUAGE SYSTEMS,
Defendant.

APPEARANCES: OF COUNSEL:

Victoria Talyansky, pro se
81-8 Park Avenue
Worcester, Massachusetts, 01605

Bond, Shoeneck & King, LLP — Maureen Young, Esq.
Attorneys for Defendant — Robert A. Laberge, Esq.
One Lincoln Center — Gretchen White, Esq.
Syracuse, New York 13202-1355

Schwartz, Cooper, Greenberger & Krauss, CHTD. — Stephen J. Senderowitz, Esq.
Attorneys for Defendant — Franklin S. Schwerin, Esq
180 North LaSalle, Suite 2700
Chicago, Illinois 60601

McCurn, Senior Judge

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MEMORANDUM-DECISION & ORDER

Currently before the court is defendant Syracuse Language System' ("SLS" or "defendant") motion to dismiss the complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. Oral argument was heard by the court on August 4, 1998 in Albany, New York and the court reserved decision. Now, for the reasons that follow, the court grants defendant's motion and dismisses the complaint.

BACKGROUND

Plaintiff filed her complaint on March 30, 1998 under Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 621-634(b), as amended ("ADEA"), against SLS alleging that SLS failed to employ her, terminated her employment, created unequal terms and conditions of employment , and created a hostile working environment because of her age. See complaint at ¶ 6. Plaintiff seeks one million dollars in damages from SLS. See complaint at ¶18.

Plaintiff was born on July 11, 1952 and was 43 years old at the time of SLS's adverse employment decision. See complaint at ¶ 8. In August 1995 until December 1995, plaintiff was temporary hired by SLS pursuant to a contract between plaintiff and SLS. See complaint at "facts" section. Plaintiff was "highly professional" and had experience working as a computer programmer in the U.S.S.R., and later in the United States for Xerox. See id.

Plaintiff alleges that as she began her four month contract with SLS, a younger women, "Nicole", also began temporary employment with SLS. See id.[1]

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[1] The complaint also alleges that Nicole "had no expirence but, maybe, was more suitable for the company." See id.

Plaintiff and Nicole were given the same employment title and responsibilities. See id. During the four months that plaintiff and Nicole worked at SLS, Nicole was offered permanent employment with SLS. See id. Plaintiff, however, received no offer for permanent employment, despite her qualifications and experience. See id. Plaintiff alleges that SLS's failure to hire her for permanent employment was age discrimination in violation of her civil rights. See id.

In addition to her claim that she was not permanently hired because of her age, plaintiff claims that SLS created a hostile work environment because it, inter alia, allowed co-workers to hold conversations in front of plaintiff about hiring candidates other than plaintiff, lost work performed by plaintiff, and refused plaintiff the opportunity to meet with her supervisors regarding the expiration of her contract. See id.

The complaint also contains allegations of "post-retaliation blacklisting" by Xerox, apparently as a result of two lawsuits filed by plaintiff against Xerox. See id. Plaintiff alleges that she was discharged from Xerox after complaining of harassment and that after the discharge, plaintiff had trouble finding employment or was subject to harassment when she was able to find employment. See id.
The complaint alleges that SLS and Xerox have a corporate relationship and that Xerox's blacklisting of plaintiff was connected to plaintiff not receiving an offer for permanent employment. See id.

SLS moves to dismiss the complaint based upon plaintiff's failure to timely file her charge with the EEOC and based upon plaintiff's failure to state a claim for age discrimination or age-based hostile work environment. Specifically, with respect to the late filing with the EEOC, SLS contends that the alleged discriminatory acts occurred at the latest in December 1995 and that plaintiff did not file her charge until January 22, 1998, well beyond the applicable time period to file.

With respect to plaintiff's failure to state a claim under the ADEA, SLS asserts that the complaint is deficient "because it fails to allege that plaintiff's employment was not extended because of her age." Defendant's Memorandum of Law at 4 . SLS also asserts that the "complaint makes it obvious that the plaintiff believes that the adverse treatment of which she complains was the product of something other than age discrimination" because plaintiff alleges that the complained of conduct was a result of post-retaliation blacklisting from Xerox. See id. Thus, defendant posits that if "plaintiff were to prove that defendant did not extend her employment because of defendant's relationship with Xerox, plaintiff would not have an age discrimination claim." See id. at 4-5.

Regarding plaintiff's hostile work environment claim, SLS contends that the allegations in plaintiff's complaint fail to state a claim "because there is nothing to suggest that the asserted conduct was age-based, and they do not portray conduct which can be deemed abusive, severe or degrading." See id. at 5-6.

DISCUSSION

A motion to dismiss for failure to state a claim may be granted only if it appeared to be beyond doubt that the plaintiff can prove no set of facts in support of her claim which would entitle her to relief. E.g., Conley v. Gibson, 355 U.S. 41, 45-46, 78 S S. Ct. 99, 102 (1957).[2] In deciding a motion to dismiss, the court must accept the plaintiff allegations of facts in the complaint as true and draw all reasonable inferences in the plaintiff's favor. See Papasan v. Alain, 478 U.S. 265, 283, 106 S.Ct. 2932, 2943, (1986).

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[2] This motion is properly brought under Rule 12(b)(6) of the Federal Rules of Civil Procedure. See Trenchfield v. Dupont Photomasks, Inc., 96 Civ. 1135, 1997 WL 53238 (S.D.N.Y. Feb. 7,1997) (" motions urging dismissal for failure to file a timely charge with the EEOC ...are regularly brought under Rule 12(b)(6) (failure to state a claim).")

With the standard as backdrop, the court addresses SLS's motion.[3]

The pith of defendant's argument on this motion is that plaintiff failed to file her EEOC charge within the applicable time period and is therefore barred from pursuing this action. Defendant is correct. Plaintiff's ADEA claim is time-barred.

Under the ADEA, no civil action based on a claim of age discrimination may be brought in federal court unless a plaintiff has timely filed a charge with the EEOC. See 29 U.S.C. § 626(d);[4]

Butts v. New York City Dep't ofDev., 990 F.2d 1397, 1401 (2d Cir.1993).

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[3] As an initial matter, the court observes that plaintiff failed to file any papers in opposition to this motion. Opposition papers to SLS's motion were required to be filed by plaintiff on or before June 1, 1998. By letter dated June 4, 1998, this court, sua sponte, extended plaintiff's time to file her opposition papers until July 1, 1998. See Dkt. No 10. As of the return date of this motion, no opposition papers were filed.

Rule 7.1(b) of the Local Rules of the Northern District of New York "permits the court to grant an unopposed motion." Munoz v. Coombe, 95-CV-1191, 1996 WL 589369 (N.D.N.Y. Oct. 11, 1996); see L.R. 7.1(B) ("Failure to file any papers as required by this rule shall, unless for good reason shown, be deemed by the court as consent to the granting or denial of the motion, as the case may be.").

During argument, plaintiff failed to demonstrate good cause for her failure to file opposition papers. Under the usual circumstances, plaintiff's failure in this regard would serve as an independent basis for granting SLS's motion. However, as the court advised plaintiff, because plaintiff appeared for oral argument and presented her arguments to the court, and because she is proceeding pro se, the court excuses plaintiff's failure and addresses the substance of SLS's motion.

See 29 U.S.C. § 626(d);[4] Butts v. New York City Dep't of Hous. Preservation and Dev., 990 F.2d 1397, 1401 (2d Cir. 1993). In New York, which has a law barring age discrimination and an agency authorized to investigate such discrimination claims, EEOC complaints must be filed within 300 days of the discriminatory act. See 29 U.S.C. §§ 626(d)(2), 633(b); Miller v. International Telephone & Telegraph Corp., 755 F.2d 20, 23 (2d Cir. 1985).[5]

As SLS points out, the complaint alleges that the discriminatory acts occurred at latest in December 1995, when plaintiff's contract term of four months expired. The plaintiff did not file her charge with the EEOC until January 22, 1998—more than 752 days after the latest alleged discriminatory act.

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[4] 29 U.S.C. § 626(d) provides, in pertinent part:

No civil action may be commenced by an individual under this section until 60 days after a charge alleging unlawful discrimination has been filed with Equal Employment Opportunity Commission. Such a charge shall be filed

(1) within 180 days after the alleged unlawful practice occurred; or

(2) in a case to which section 633(b) of this title applies [exception for plaintiff in states that have state or local agency to grant or seek relief from such discrimination], within 300 days after the alleged unlawful practice occurred, or within 30 days after receipt by the individual of notice of termination of proceedings under State law, whichever is earlier.

29 U.S.C. § 626(d).

[5] The filing deadline, however, serves more a statute of limitations that as a jurisdictional prerequisite and therefore is subject to waiver, estoppel and equitable tolling. See Briones v. Runyon, 101 F.3d 287, 290 (2d Cir. 1996). No such equitable relief is warranted here because defendant had not waived this defense and there is no allegation that defendant's conduct contributed to plaintiff's delay in filing her claim. See, e.g., Ryan v. New York State Thruway Auth., 889 F. Supp. 70, 78 (N.D.N.Y. 1995).

Accordingly, plaintiff's complaint must be dismissed. See Dillman v. Combustion Engineering, Inc., 784 F. 2d 57, 59 (2d Cir. 1986) ("No civil action based on a claim of age discrimination may be brought in a federal court unless the plaintiff has timely filed his claim with the EEOC."); Williams v. Board of Educ., 972 F. Supp. 248, 249-50 (S.D.N.Y. 1997) (pro se plaintiff's claim under the ADEA dismissed as time-barred because plaintiff failed to timely file his charge with the EEOC); Hinds v Magna Fabrics, Inc., 96 Civ. 1383, 1997 WL 309378 (S.D.N.Y. June 9, 1997) (same).[6]

CONCLUSION

For the foregoing reasons, the court GRANTS defendant Syracuse Language System's motion to dismiss the complaint. The Clerk of the Court is directed to enter judgement accordingly.

IT IS SO ORDERED.

Date: August 7, 1998
Syracuse, New York

/s/Neal P. McCurn

Neal McCurn
Senior United States District Judge

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[6] Inasmuch as the court dismisses plaintiff's complaint, the court need not address defendant's remaining claims that the complaint fails to state a cause of action under the ADEA.

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U.S. DISTRICT COURT
N.D. OF N.Y
FILED AUG. 07 1998

United States District Court
Northern District of New York

JUDGEMENT IN A CIVIL CASE

VICTORIA TALYANSKY

v. CASE NUMBER:

SYRACUSE LANGUAGE SYSTEMS 98-CV-526
(NPM/GLS)

[] **Jury Verdict.** This action came to trial or hearing before the Court for trial by jury. The issues have been tried and the jury has rendered its verdict.

[XX] **Decision by Court**. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS SO ORDERED AND ADJUDGED that judgement be entered in favor of defendant against plaintiff, dismissing the complaint pursuant to the Order of the Hon. Neal P. McCurn filed on August 7, 1998.

August 7, 1998 LAWRENCE K. BAERMANN

DATE CLERK

/s/Linda M. Payne
(BY) DEPUTY CLERK

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Filed: FEB 05 1999
U.S. District Court-
N.D. OF N.Y.
98-CV-526

VICTORIA TALYANSKY,
Plaintiff,

v.

SYRACUSE LANGUAGE SYSTEMS,
Defendant.

APPEARANCES: OF COUNSEL:

Victoria Talyansky, pro se
81-8 Park Avenue
Worcester, Massachusetts, 01605

Bond, Shoeneck & King, LLP — Maureen Young, Esq.
Attorneys for Defendant — Robert A. Laberge, Esq.
One Lincoln Center — Gretchen White, Esq.
Syracuse, New York 13202-1355

Schwartz, Cooper, Greenberger & Krauss, CHTD. — Stephen J. Senderowitz, Esq.
Attorneys for Defendant — Franklin S. Schwerin, Esq.
180 North LaSalle, Suite 2700
Chicago, Illinois 60601

McCurn, Senior Judge

ORDER

Plaintiff Victoria Talyansky has appealed the August 7, 1998 Memorandum-Decision and Order of this court granting defendant's motion to dismiss the complaint. Judgement in this case was entered on the same date. Plaintiff's notice of appeal was stamped and filed in the Clerk's Office of this court on September 9, 1998. The appeal was then transmitted to the United States Court of Appeals for the Second Circuit. On October 7, 1998, the Circuit sua sponte dismissed plaintiff's appeal as untimely pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure. Subsequently, plaintiff moved for reconsideration of her appeal with the Circuit. Upon information and belief, the Circuit refused to reconsider her appeal. The file was returned to the Clerk's office of this court. Plaintiff now moves before this court to have her appeal reinstated as timely filed.

Although more than thirty days elapsed between the time that final judgement was entered and the day the Clerk's Office of this court stamped and filed plaintiff's notice of appeal, the appeal was timely filed.

The thirtieth day to file the notice of appeal was extended to Monday, September 7, 1998. Monday, Labor Day, was a "legal holiday" within the meanings of both Federal Rule of Civil Procedure 6(a) and Federal Rule of Appellate Procedure 26(a). Hence, the period to file the notice of appeal extended to Tuesday, September 8, 1998.

Due to a severe which struck much of upstate New York, including Syracuse, this court, and its Clerk's Office, was closed on Tuesday, September 8.[1]

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[1]The storm—with winds of over 100 mph—left more than 250,000 people without power, including most of the residents of the City of Syracuse, and downed approximately 30,000 trees.

(...continued)

Accordingly, pursuant to both Federal Rule of Civil Procedure 6(a) and Federal Rule of Appellate Procedure 26(a),[2] plaintiff's period to file her notice of appeal extended until the next day of the Clerk's Office was open, Wednesday, September 9, 1998. On this day the Clerk's Office stamped and filed plaintiff's notice of appeal.

For the reasons discussed above, it is clear that the notice of appeal was timely filed. In the interests of justice, this court hereby orders nunc pro tunc the Clerk's office to regard the notice of appeal as timely filed as of the day the Clerk's Office was closed, September 8, 1998, and transmit the file to the Second Circuit.

IT IS SO ORDERED.

Dated:
February 5, 1999
Syracuse, New York

/s/ Neal P. McCurn
Neal P. McCurn
Senior United States District Judge

(...continued)
President Clinton declared a seven county area of the Northern District of New York, including the county in which the court sits, a federal disaster area. In the aftermath of the storm, most roads in and around Syracuse were unpassable. Consequently, the Clerk's Office was closed.

[2] "The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or a day on which the whether or other condition have made the office of the clerk of the court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days." Federal Rule of Appellate Procedure 26(a) (emphasis supplied).

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FROM: Jean-Claude PIERRE
Webster, September 2, 1994
Xerox Corporation
Extended Storage Server Program Manager

TO: WHOM IT MAY CONCERN

SUBJECT: Recommendation Letter

This letter is written on behalf of *Victoria Talyanski*. She has been working for Xerox Corporation in the DocuTech Production Publisher program as a contract employee since December 1990. She started as a system Key-Operator I. My former manager and I quickly agreed that *Victoria Talyanski* had fully demonstrated that she had
the abilities to perform in a higher capacity. She showed an overall excellent understanding of testing practices and was promoted to System Key-Operator II. Victoria had proved herself to consistently be one of our top performing system key operators at the time in the Full Integration Lab. She had mastered both the basic and more advanced technical functions of her position, in addition to understanding on her own the larger functional issues of this complex machine. She showed exceptional initiative in completing her assignments with minimal supervision, and was given several assignments to teach herself complex details of the system, and then test them. We depended on Victoria, as a System Key-Operator II, to perform all "performance" tests required for the Integrated DocuTech, including the DocuTech, the Extended Storage Server and SBM.

Victoria had a chance to train her peers in the performance testing art, a task she completed with the great success. *Victoria Talyanski* can be an asset anywhere and I could not be happier to recommend her to be a member of your team.

Sincerely,
Jean-Claude Pierre

/s/ Jean-Claude Pierre

Rex B. Murphy
Xerox Corporation
800 Phillips Road 129/38A
Webster, NY 14580
(716) 422-9920

April 29, 1994

To Whom It May Concern:

As a software development engineer with Xerox, I have had the pleasure of working closely with *Victoria Talyansky* for the past two years. In her role as a DocuTech operator in our development
testing center, Victoria has demonstrated an uncanny ability to uncover subtle software problems, bring them to the attention of the responsible engineer and follow them through to resolution.
Victoria is hard working, conscientious, and fun to be around. From my experiences with Victoria, I have the feeling that she can master any task she puts in her mind to. Her mastery of the English language is a case in point. I am happy to recommend Victoria for any position she feels qualified to apply for.
If you have any question, please, feel free to contact me.

Sincerely,
s: Rex B. Murphy

Rex B. Murphy.

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burns personnel

Providing flexible work force staffing in Word-processing * Office* Accounting* Technical * Industrial * Testing & Training * Direct Placement

February 11, 1997

Victoria Talyansky
466 Deborah Drive
Utica, New York, 13502

Dear Ms. Talyansky:

The reason for terminations are as follows:

Xerox Corp. - Conflict with co-workers.

Mercury Print - Poor job match. Victoria made mistakes and was reluctant to work overtime and work on the "B" shift.

Victoria, please, feel free to use my name as a work reference.

Very truly,
/s/ Jackie Tedesco
President, Jackie Tedesco

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TEST RESULTS RECORD

To-Do-Tasks 10/10/95
12:21

Description
TRAVEL, debug, phase 2 (vic, 10/5):
Frame 6, Lane 9: audio (chop) for "Etes" in the world "Etes-vous" is missing.
Frame 16, Lane 30: audio for word "la" is missing.
Frame 24, Lane 215: audio for all versions is for different sentence:"Bien sur que non" instead of the sentence displayed on the screen: "Mais non, monsieur".
Frame 55, Lane 117: audio(chop) for the word "Paris" is missing.
Frame 69, Lane 117: audio (chop) for the word "plait" is incorrect.
(I sent this to Jeff & Joanne)

Identifier	<None>
Project French	Your Way
Project Sub-part	Module 2
Work Group Assigned to	Testing
Assigned to	Chestnut, Joann
Requested by	Fox, Sarah
Priority	<Empty>
Date Entered	10/5/95
Deadline	10/6/95
⊗ Completed	
Date Completed	10/7/95

Completion Notes
What an awesome track record! Please, ask Victoria to test all the other dialogs!!!